

“(B) a review of the availability of crop insurance or disaster assistance for fruit and vegetable producers;

“(C) a review of scientific and technological advances in the areas of genetics, biotechnology, integrated pest management, post harvest protection, and other scientific developments related to the production and marketing of fruits and vegetables;

“(D) an examination of the availability of safe and effective chemicals for use in the production of fruits and vegetables, and an evaluation of the value of national uniformity to both consumers and producers;

“(E) a review of the requirements and cost of labeling fruits and vegetables in the industry, and the benefits that would result from the labeling of such products; and

“(F) a review of Federal educational programs that teach the importance of fruits and vegetables to a proper diet.

“(b) REPORT.—Not later than 18 months after the date of enactment of this title [Nov. 28, 1990], the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the results of the study described in subsection (a). Such report shall include—

“(1) the recommendations of the Secretary concerning the manner in which producers of domestic fruit and vegetable commodities that are not receiving assistance under the programs that provide market enhancement assistance (such as the export enhancement program under subtitle B of title XI of the Food Security Act of 1985 (7 U.S.C. 1736p et seq.) to producers of domestic fruit and vegetable commodities, could participate in such programs; and

“(2) the recommendations to the Secretary concerning the establishment of additional programs of the type described in paragraph (1) to assist producers of domestic fruit and vegetable commodities in increasing their production and in expanding domestic and foreign markets for the products of such producers.

**“SEC. 1305. COUNTRY OF ORIGIN LABELING PROGRAMS.**

“(a) GROWN IN THE U.S. PROGRAM.—The Secretary of Agriculture (hereafter referred to in this section as the ‘Secretary’) shall implement a program defining the conditions under which non-perishable agricultural products may be designated as ‘grown in the U.S.’.

“(b) PILOT PROGRAM.—

“(1) IN GENERAL.—The Secretary shall implement a 2-year pilot program during which time perishable agricultural products (fresh fruits and vegetables) are labeled or marked as to their country of origin. This program shall be conducted nationwide. After the 2-year period, the Secretary shall conduct a study to determine the results of the program. The Secretary shall submit to the Congress the results of the study within 18 months from the date of completion of the program.

“(2) DETAILS OF THE PILOT PROGRAM.—

“(A) DESIGNATION OF COUNTRY OF ORIGIN.—The program shall require that the country of origin of perishable agricultural products be indicated on any such products or on the package, display, holding unit, or bin by means of a label, stamp, mark, placard, or other clear and visible indication at the point of sale by any commission merchant, dealer, broker, or grocer. A sign near the products shall be an acceptable indication of the country of origin.

“(B) APPLICATION OF PROGRAM.—

“(i) IMPORTED AND DOMESTIC PRODUCTS.—The program shall apply to imported and domestic perishable agricultural products (including fresh fruits and vegetables).

“(ii) IMPORTED PERISHABLE AGRICULTURAL PRODUCTS.—The labeling program shall apply to im-

ported perishable agricultural products that enter the United States marked as to the country of origin and that are in compliance with section 304(a) of the Tariff Act of 1930 [19 U.S.C. 1304(a)].

“(C) EXEMPTIONS.—The Secretary may provide for exemptions for products that are exempted, under section 304(a)(3)(J) of the Tariff Act of 1930, from the country of origin marking requirements of that Act [19 U.S.C. 1202 et seq.].

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.”

**POTATO DEALERS**

Pub. L. 95-562, §1(b), Nov. 1, 1978, 92 Stat. 2381, provided in part that no person buying potatoes for processing solely within the State where grown shall be deemed or considered to be a dealer under par. (6) of this section, as amended by section 1(b) of Pub. L. 95-562, until Jan. 1, 1982.

**§ 499b. Unfair conduct**

It shall be unlawful in or in connection with any transaction in interstate or foreign commerce:

(1) For any commission merchant, dealer, or broker to engage in or use any unfair, unreasonable, discriminatory, or deceptive practice in connection with the weighing, counting, or in any way determining the quantity of any perishable agricultural commodity received, bought, sold, shipped, or handled in interstate or foreign commerce.

(2) For any dealer to reject or fail to deliver in accordance with the terms of the contract without reasonable cause any perishable agricultural commodity bought or sold or contracted to be bought, sold, or consigned in interstate or foreign commerce by such dealer.

(3) For any commission merchant to discard, dump, or destroy without reasonable cause, any perishable agricultural commodity received by such commission merchant in interstate or foreign commerce.

(4) For any commission merchant, dealer, or broker to make, for a fraudulent purpose, any false or misleading statement in connection with any transaction involving any perishable agricultural commodity which is received in interstate or foreign commerce by such commission merchant, or bought or sold, or contracted to be bought, sold, or consigned, in such commerce by such dealer, or the purchase or sale of which in such commerce is negotiated by such broker; or to fail or refuse truly and correctly to account and make full payment promptly in respect of any transaction in any such commodity to the person with whom such transaction is had; or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction; or to fail to maintain the trust as required under section 499e(c) of this title. However, this paragraph shall not be considered to make the good faith offer, solicitation, payment, or receipt of collateral fees and expenses, in and of itself, unlawful under this chapter.

(5) For any commission merchant, dealer, or broker to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State,

country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce. However, any commission merchant, dealer, or broker who has violated—

(A) any provision of this paragraph may, with the consent of the Secretary, admit the violation or violations; or

(B) any provision of this paragraph relating to a misrepresentation by mark, stencil, or label shall be permitted by the Secretary to admit the violation or violations if such violation or violations are not repeated or flagrant;

and pay, in the case of a violation under either clause (A) or (B) of this paragraph, a monetary penalty not to exceed \$2,000 in lieu of a formal proceeding for the suspension or revocation of license, any payment so made to be deposited into the Treasury of the United States as miscellaneous receipts. A person other than the first licensee handling misbranded perishable agricultural commodities shall not be held liable for a violation of this paragraph by reason of the conduct of another if the person did not have knowledge of the violation or lacked the ability to correct the violation.

(6) For any commission merchant, dealer, or broker, for a fraudulent purpose, to remove, alter, or tamper with any card, stencil, stamp, tag, or other notice placed upon any container or railroad car containing any perishable agricultural commodity, if such card, stencil, stamp, tag, or other notice contains a certificate or statement under authority of any Federal or State inspector or in compliance with any Federal or State law or regulation as to the grade or quality of the commodity contained in such container or railroad car or the State or country in which such commodity was produced.

(7) For any commission merchant, dealer or broker, without the consent of an inspector, to make, cause, or permit to be made any change by way of substitution or otherwise in the contents of a load or lot of any perishable agricultural commodity after it has been officially inspected for grading and certification, but this shall not prohibit re-sorting and discarding inferior produce.

(June 10, 1930, ch. 436, § 2, 46 Stat. 532; Apr. 13, 1934, ch. 120, §§ 2, 3, 48 Stat. 585; June 19, 1936, ch. 602, § 1, 49 Stat. 1533; Aug. 20, 1937, ch. 719, §§ 2-4, 50 Stat. 725, 726; June 29, 1940, ch. 456, §§ 3, 4, 54 Stat. 696; Apr. 6, 1942, ch. 211, 56 Stat. 200; July 30, 1956, ch. 786, § 1, 70 Stat. 726; Pub. L. 93-369, Aug. 10, 1974, 88 Stat. 423; Pub. L. 97-352, § 1, Oct. 18, 1982, 96 Stat. 1667; Pub. L. 98-273, § 2, May 7, 1984, 98 Stat. 166; Pub. L. 104-48, §§ 9(b), 10, Nov. 15, 1995, 109 Stat. 430.)

#### Editorial Notes

##### CODIFICATION

Section was formerly classified to section 552 of this title.

##### AMENDMENTS

1995—Pub. L. 104-48, § 9(b)(1), substituted “commerce” for “commerce—” in introductory provisions.

Pars. (1) to (3). Pub. L. 104-48, § 9(b)(2), substituted period for semicolon at end.

Par. (4). Pub. L. 104-48, § 9(b)(2), (3), substituted period for semicolon after “section 499e(c) of this title” and

inserted at end “However, this paragraph shall not be considered to make the good faith offer, solicitation, payment, or receipt of collateral fees and expenses, in and of itself, unlawful under this chapter.”

Par. (5). Pub. L. 104-48, §§ 9(b)(2), 10, substituted “foreign commerce. However,” for “foreign commerce: *Provided*, That”, substituted period for semicolon after “miscellaneous receipts”, and inserted at end “A person other than the first licensee handling misbranded perishable agricultural commodities shall not be held liable for a violation of this paragraph by reason of the conduct of another if the person did not have knowledge of the violation or lacked the ability to correct the violation.”

Par. (6). Pub. L. 104-48, § 9(b)(2), substituted period for semicolon at end.

1984—Par. (4). Pub. L. 98-273 inserted “or to fail to maintain the trust as required under section 499e(c) of this title.”

1982—Par. (5). Pub. L. 97-352 substituted “*Provided*, That any commission merchant, dealer, or broker who has violated (A) any provision of this paragraph may, with the consent of the Secretary, admit the violation or violations; or (B) any provision of this paragraph relating to a misrepresentation by mark, stencil, or label shall be permitted by the Secretary to admit the violation or violations if such violation or violations are not repeated or flagrant; and pay, in the case of a violation under either clause (A) or (B) of this paragraph,” for “*Provided*, That any commission merchant, dealer, or broker who has violated this paragraph may, with the consent of the Secretary, admit the violation or violations and pay”.

1974—Par. (5). Pub. L. 93-369 inserted proviso for consent admission of violations, payment of monetary penalty not in excess of \$2,000 in lieu of formal proceedings for suspension or revocation of license, and for deposit of the payments into the Treasury of the United States as miscellaneous receipts.

1956—Par. (5). Act July 30, 1956, struck out “for a fraudulent purpose” after “broker”, and included misrepresentation of region of origin.

1942—Par. (4). Act Apr. 6, 1942, inserted “and make full payment” and “or to fail, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with any such transaction”.

1940—Par. (1). Act June 29, 1940, § 3, among other changes, inserted “dealer” after “merchant”.

Par. (5). Act June 29, 1940, inserted “quantity, size, pack, weight” after “quality”.

1937—Par. (5). Act Aug. 20, 1937, § 2, among other changes, inserted “mark, stencil, label, statement” after “act” and “the character, kind, grade, quality, condition, degree of maturity” after “or deed”.

Par. (6). Act Aug. 20, 1937, § 3, inserted “or in compliance with any Federal or State law or regulation” after “inspector”.

Par. (7). Act Aug. 20, 1937, § 4, added par. (7).

1936—Par. (4). Act June 17, 1936, struck out “or concerning the condition of the market for” after “involving”.

1934—Par. (2). Act Apr. 13, 1934, § 2, inserted “or consigned” after “sold”.

Par. (4). Act Apr. 13, 1934, § 3, substituted “in connection with any transaction involving or concerning” for “concerning the condition, quality, quantity or disposition of” and inserted “or consigned” after “contracted to be bought or sold”.

#### § 499b-1. Products produced in distinct geographic areas

##### (a) In general

In the case of a perishable agricultural commodity (as defined under the Perishable Agricultural Commodity Act (7 U.S.C. 499a(4))<sup>1</sup>

<sup>1</sup> See References in Text note below.